

### **REJECTION UNDER 35 U.S.C. § 102**

Claims 1 – 5, 10 – 14 and 20 – 26 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Bertness (U.S. Pat. No. 6,322,113). This rejection is respectfully traversed.

At the outset, Applicant respectfully notes that independent Claims 1 and 20 include the steps of “selecting the first parameter of a particular battery of the battery pack; determining an average first parameter value of the remaining batteries of the battery pack;” and “determining a resultant value as a function of the isolated first parameter and the average first parameter value of the remaining batteries”. Similarly, independent Claims 10, 23 and 25 include “a circuit ... adapted to measure a first parameter ... of each of the batteries of the battery pack and to compare the first parameter of a particular battery to the first parameter of the remaining batteries”. In brief, the present invention, as originally claimed, isolates a first parameter of a particular battery in the battery pack and makes a comparison to the average first parameter values of the remaining batteries. The average value does not account for the particular battery.

With regard to Claims 1, 10, 20, 23 and 25, Bertness discloses an electronic battery tester that measures a voltage of two halves of a string of battery cells. The total voltages of each half are compared and an alert is signaled if the halves differ by more than a predetermined amount. (Col. 3, Lines 52 – 58). In other words, Bertness compares a voltage of a first half of series battery cells to a voltage of a second half of series battery cells to determine if a difference therebetween is within a predetermined amount. Bertness, however, fails to teach or suggest comparing a

measured value of a single battery or cell to an average value of the remaining batteries or cells. Therefore, the present invention is distinct over the prior art because the prior art fails to anticipate each of the elements as claimed. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

With regard to Claims 2 – 5, 9 – 14, 21, 24 and 26, each is dependent upon one of Claims 1, 10, 20, 23 and 25. As discussed above, Claims 1, 10, 20, 23 and 25 are each distinct over the prior art. Therefore, dependent Claims 2 – 5, 9 – 14, 21, 24 and 26 are also distinct over the prior art and reconsideration and withdrawal of the rejections are respectfully requested.

#### **REJECTION UNDER 35 U.S.C. § 103**

Claims 6 – 9, 15, 17 – 19 and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bertness (U.S. Pat. No. 6,332,113) in view of Wiley et al. (U.S. Pat. No. 6,031,354). This rejection is respectfully traversed.

At the outset, Applicant notes that the arguments made above with respect to Bertness apply equally hereto. Applicant respectfully notes that Wiley et al. fails to supplement the deficient teachings of Bertness. In particular, Wiley et al. fails to teach or suggest comparing a measured value of a single battery or cell to an average value of the remaining batteries or cells.

Claims 6 – 9, 15, 17 – 19 and 27 each depend from one of Claims 1, 10, 20, 23 and 25, which are each distinct over the prior art as discussed in detail above. Therefore, Claims 6 – 9, 15, 17 – 19 and 27 are also distinct over the prior art and reconsideration and withdrawal of the rejections are respectfully requested.

Claim 16 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Bertness (U.S. Pat. No. 6,332,113) in view of Malaspina (U.S. Pat. No. 5,544,784). This rejection is respectfully traversed.

At the outset, Applicant respectfully notes that Malaspina fails to supplement the deficient teachings of Bertness. In particular, Malaspina fails to teach or suggest comparing a measured value of a single battery or cell to an average value of the remaining batteries or cells.

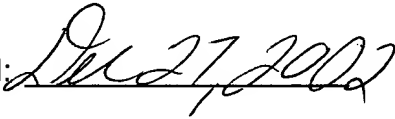
Claim 16 indirectly depends from one of Claim 10, which is distinct over the prior art as discussed in detail above. Therefore, Claim 16 is also distinct over the prior art and reconsideration and withdrawal of the rejection are respectfully requested.

### CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated:



By:

  
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